

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

KELLY J. GANNON, individually,)
SHANE A. MATLOCK, individually,)
and KELLY J. GANNON and SHANE A.)
MATLOCK, Co-Executors of the Estate)
of ROBERTA J. MATLOCK,)
deceased,)

Plaintiffs,)

v.)

BRADLEY K. BITTLE, M.D., and)
SAINT FRANCIS MEDICAL CENTER,)

Defendants.)

Case No.:

JURY TRIAL DEMANDED

COMPLAINT FOR MEDICAL MALPRACTICE

COMES NOW the Plaintiffs, Kelly J. Gannon and Shane A. Matlock,
individually and as Co-Executors of the Estate of Roberta J. Matlock, Deceased,
by and through their attorney, Mark S. Johnson of Johnson, Schneider & Ferrell,
L.L.C., and for their Complaint for Medical Malpractice against the Defendants,
Bradley K. Bittle, M.D., and Saint Francis Medical Center, states as follows:

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1332
because of diversity of citizenship of the parties and the amount in controversy
exceeds the jurisdictional limit of \$75,000.00.

2. Venue is placed in this District and Division pursuant to 28 U.S.C.
Section 1391 because it is where the individual Defendant resides and where the

corporate Defendant has its principal office and where a substantial part of the events giving rise to Plaintiffs' claim occurred.

PARTIES

3. That the Plaintiff, Kelly J. Gannon, is an individual citizen of the State of Illinois and is one of the two surviving children of Roberta J. Matlock who died on November 12, 2014.

4. That the Plaintiff, Shane A. Matlock, is an individual citizen of the State of Illinois and is one of the two surviving children of Roberta J. Matlock who died on November 12, 2014.

5. Plaintiffs are also the duly appointed Co-Executors of the Estate of Roberta J. Matlock by virtue of an Order entered in the Circuit Court of Alexander County, Illinois in Case No.: 2015-P-10 on May 18, 2015, as more fully appears from a copy of the Letters of Office which are attached hereto, marked Exhibit A and made a part hereof.

6. That the Plaintiffs' decedent, Roberta J. Matlock, was a citizen of the State of Illinois at all times material to this Complaint.

7. That the Defendant, Bradley K. Bittle, M.D., is an individual citizen of the State of Missouri and at all times material to this Complaint was a duly licensed, practicing physician engaged in his profession in the City and County of Cape Girardeau, Missouri and held himself out to the public as being skilled, careful and diligent in the practice of his profession of pulmonology.

8. That the Defendant, Saint Francis Medical Center, is a non-profit corporation and is a citizen of the State of Missouri with its principal place of business in the State of Missouri and was, at all times material to this Complaint, doing business under the fictitious name of Cape Pulmonology and Sleep Medicine.

9. That the Defendant, Bradley K. Bittle, M.D., was at all times material to this Complaint, an employee or agent of the Defendant, Saint Francis Medical Center, and was acting within the scope of that agency at all times material to this Complaint.

Count I – Wrongful Death for Medical Malpractice

10. That the Plaintiffs individually bring this claim as the sole surviving children and heirs of Roberta J. Matlock, Deceased pursuant to the provisions of Section 537.080, Mo.Rev.Stat.

11. That on or about January 9, 2014, the Defendant, Bradley K. Bittle, M.D., examined and treated the Plaintiffs' decedent at the Defendant, Saint Francis Medical Center's facility, for an abnormal CT Scan, which included pulmonary nodules.

12. That on or about January 9, 2014, Defendant, Bradley K. Bittle, M.D., incorrectly diagnosed the Plaintiffs' decedent's condition as interstitial lung disease, rather than the correct diagnosis of lung cancer.

13. That from and after January 9, 2014 and at all other material times herein, the Defendant, Dr. Bradley K. Bittle, M.D., individually and as agent of

the Defendant, Saint Francis Medical Center, failed to exercise a degree of care, skill and knowledge customarily employed by pulmonologists and was therefore professionally negligent in failing to correctly diagnose the condition of Roberta J. Matlock in one or more of the following actions or omissions of action:

- (a) The Defendants misdiagnosed the condition of the Plaintiffs' decedent;
- (b) The Defendants failed to order follow-up CT Scans for a proper differential diagnosis of Plaintiffs' decedent's condition;
- (c) The Defendants failed to perform a bronchoscopy on the Plaintiffs' decedent for a proper differential diagnosis;
- (d) The Defendants failed to perform a needle aspiration on the Plaintiffs' decedent as part of the proper differential diagnosis of Plaintiffs' decedent's condition;
- (e) The Defendants failed to provide Plaintiffs' decedent with continued follow-up care and proper monitoring of Plaintiffs' decedent's condition until a proper and correct differential diagnosis could be made.

14. That one or more of the foregoing negligent acts or omissions to act more likely than not caused or was a substantial factor in causing the death of Roberta J. Matlock and therefore caused the Plaintiffs to suffer the loss of services, consortium, companionship, comfort, instruction, guidance and counsel with their mother, Roberta J. Matlock, and to incur pecuniary losses including, but not limited to, medical and funeral expenses.

WHEREFORE, the Plaintiffs Kelly J. Gannon and Shane A. Matlock, individually, pray for judgment against the Defendants, Bradley K. Bittle, M.D., and Saint Francis Medical Center, jointly and severally, for a sum in excess of \$75,000.00 and for such other and further relief as this Court deems just and proper, including the recovery of Plaintiffs' cost of suit.

Count II – Alternative Survival Action for Medical Malpractice

15. That the Plaintiffs, Kelly J. Gannon and Shane A. Matlock, Co-Executors of the Estate of Roberta J. Matlock, Deceased, bring this survival action against the Defendants pursuant to 537.020 Mo.Rev.Stat.

16. That on or about January 9, 2014, the Defendant, Bradley K. Bittle, M.D., examined and treated the Plaintiffs' decedent at the Defendant, Saint Francis Medical Center's facility, for an abnormal CT Scan, which included pulmonary nodules.

17. That on or about January 9, 2014 Defendant, Bradley K. Bittle, M.D., incorrectly diagnosed the Plaintiffs' decedent's condition as interstitial lung disease, rather than the correct diagnosis of lung cancer.

18. That from and after January 9, 2014 and at all other material times herein, the Defendant, Dr. Bradley K. Bittle, M.D., individually and as agent of the Defendant, Saint Francis Medical Center, failed to exercise a degree of care, skill and knowledge customarily employed by pulmonologists and was therefore professionally negligent in failing to correctly diagnose the condition of Roberta J. Matlock in one or more of the following actions or omissions of action:

(a) The Defendants misdiagnosed the condition of the Plaintiffs' decedent;

(b) The Defendants failed to order follow-up CT Scans for a proper differential diagnosis of Plaintiffs' decedent's condition;

(c) The Defendants failed to perform a bronchoscopy on the Plaintiffs' decedent for a proper differential diagnosis;

(d) The Defendants failed to perform a needle aspiration on the Plaintiffs' decedent as part of the proper differential diagnosis of Plaintiffs' decedent's condition;

(e) The Defendants failed to provide Plaintiffs' decedent with continued follow-up care and proper monitoring of Plaintiffs' decedent's condition until a proper and correct differential diagnosis could be made.

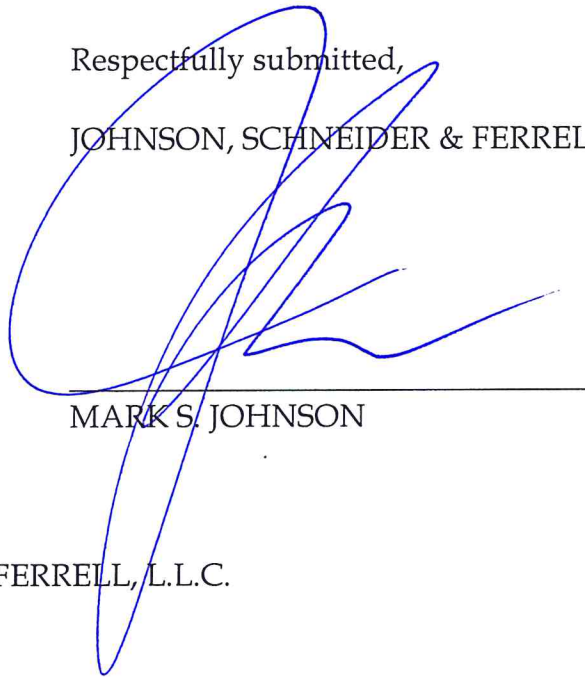
19. That one or more of the foregoing negligent acts or omissions to act more likely than not caused or was a substantial factor in causing Roberta J. Matlock a lost chance of recovery from her condition of lung cancer and therefore caused Plaintiffs' decedent to endure pain and suffering between the time of her injury and the time of her death on November 12, 2014 and to incur pecuniary losses in the form of medical expenses.

WHEREFORE, the Plaintiffs Kelly J. Gannon and Shane A. Matlock, as Co-Executors of the Estate of Roberta J. Matlock, Deceased, pray for judgment against the Defendants, Bradley K. Bittle, M.D., and Saint Francis Medical Center, jointly and severally, for a sum in excess of \$75,000.00 and for such other and further relief as this Court deems just and proper, including the recovery of Plaintiffs' cost of suit.

PLAINTIFF DEMANDS A JURY OF SIX (6) TO HEAR THIS MATTER.

Respectfully submitted,

JOHNSON, SCHNEIDER & FERRELL, L.L.C.



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